

**RESOLUTION NO. 01-03**

**A RESOLUTION OF THE GOVERNING BOARD OF THE ANTELOPE VALLEY  
AIR POLLUTION CONTROL DISTRICT MAKING FINDINGS, CERTIFYING THE  
NEGATIVE DECLARATION, AMENDING REGULATION XIII - *NEW SOURCE REVIEW*  
AND DIRECTING STAFF ACTIONS.**

On March 20, 2001 on motion by Member **JIM LEDFORD**, seconded by Member  
**VERN LAWSON**, and carried, the following resolution is adopted:

**WHEREAS**, the Antelope Valley Air Pollution Control District (AVAPCD) has the  
authority pursuant to California Health and Safety Code (H&S Code) §§40702, and 40725-40728 to  
adopt, amend or repeal rules and regulations; and

**WHEREAS**, Regulation XIII - *New Source Review* was originally adopted by the South  
Coast Air Quality Management District (SCAQMD) on October 5, 1979 and amended in whole or in  
part the rules contained therein on March 7, 1980; September 10, 1982; July 12, 1985; January 1,  
1986; August 1, 1986; September 5, 1986; December 2, 1988; June 28, 1990; May 3, 1991; June 5,  
1992; September 11, 1992; August 13, 1993; December 7, 1995; May 10, 1996; and June 14, 1996;  
and

**WHEREAS**, the Federal Clean Air Act (FCAA) requires as part of a State Implementation  
Plan (SIP) the adoption of a preconstruction review program for all new or modified stationary  
sources of air pollution in areas which have been designated non-attainment for any national ambient  
air quality standard (42 U.S.C. §7502(c)(5); FCAA §172(c)(5)); and

**WHEREAS**, the California Clean Air Act (CCAA) requires that air districts designated  
nonattainment for state air quality standards develop and implement a preconstruction review  
permitting program for major stationary sources of air pollution (H&S Code §40918(a)).

**WHEREAS**, the SCAQMD version of Regulation XIII was submitted and approved by  
USEPA as part of the SIP at 40 CFR 52.220(c)(240)(i)(A)(1) (12/04/96, 61 FR 64291) to satisfy the  
Federal requirements; and

**WHEREAS**, the SCAQMD version of Regulation XIII was submitted and approved by  
CARB to satisfy the State requirements; and

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1       **WHEREAS**, pursuant to H&S Code §40106 the AVAPCD assumed all air pollution control  
2 responsibilities from the SCAQMD in the Los Angeles County portion of the Mojave Desert Air  
3 Basin effective July 1, 1997; and

4       **WHEREAS**, pursuant to H&S Code 40106(e) the rules and regulations of the SCAQMD in  
5 effect within the in the Los Angeles County portion of the Mojave Desert Air Basin on July 1, 1997  
6 remain in effect until the AVAPCD Governing Board adopts rules which supercedes them; and

7       **WHEREAS**, Regulation XIII - *New Source Review* is therefore effective within the  
8 AVAPCD to cover both State and Federal preconstruction review program requirements; and

9       **WHEREAS**, the SCAQMD version of Regulation XIII was designed to cover a variety of  
10 State and Federal air quality non-attainment designations which are contained within the jurisdiction  
11 of that agency; and

12       **WHEREAS**, the jurisdiction of the AVAPCD is located solely within the Los Angeles  
13 County Portion of the Mojave Air Basin which has been designated Federal nonattainment for Ozone  
14 and classified Severe-17 (40 CFR 81.305) and designated State nonattainment for Ozone and PM<sup>10</sup>;  
15 and

16       **WHEREAS**, it is necessary and prudent to modify Regulation XIII - *New Source Review* to  
17 reflect the nonattainment designation within the AVAPCD rather than the various nonattainment  
18 designations within SCAQMD; and

19       **WHEREAS**, the proposed amendments are designed to reflect the AVAPCD's  
20 nonattainment designation and classification of Severe-17 for Ozone; and

21       **WHEREAS**, the proposed amendments have also completely reorganized the regulation for  
22 clarity and ease of use; and

23       **WHEREAS**, the proposed amendments to Regulation XIII - *New Source Review* must be  
24 submitted to USEPA as a SIP revision; and

25       **WHEREAS**, the proposed amendments to Regulation XIII - *New Source Review* are  
26 necessary as indicated herein and in the supporting documentation; and

27       **WHEREAS**, the AVAPCD has the authority pursuant to H&S Code §40702 to amend rules  
28 and regulations; and

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1       **WHEREAS**, the proposed amendments to Regulation XIII - *New Source Review* are clear in  
2 that the meaning can be easily understood by the persons impacted by the Regulation; and

3       **WHEREAS**, the proposed amendments to Regulation XIII - *New Source Review* are in  
4 harmony with, and not in conflict with, or contradictory to existing statutes, court decisions, or State  
5 of Federal regulations because they implement required provisions of the FCAA and CCAA; and

6       **WHEREAS**, the proposed amendments to Regulation XIII - *New Source Review* do not  
7 impose the same requirements as any existing State of Federal regulation because implement  
8 required provisions of the FCAA and CCAA; and

9       **WHEREAS**, the proposed amendments to Regulation XIII - *New Source Review* are properly  
10 referenced in that they implement required provisions of the FCAA and CCAA as indicated herein  
11 and in the supporting documentation; and

12       **WHEREAS**, a public hearing has been properly noticed and conducted, pursuant to H&S  
13 Code §40725, concerning the proposed amendments to Regulation XIII - *New Source Review*; and

14       **WHEREAS**, the proposed amendments to Regulation XIII - *New Source Review* will not  
15 have an adverse effect on the environment because emissions allowed pursuant to the proposed  
16 amended regulation will not increase over those allowed pursuant to the current regulation; and

17       **WHEREAS**, a Negative Declaration for the proposed amendments to Regulation XIII - *New*  
18 *Source Review*, completed in compliance with the California Environmental Quality Act (CEQA),  
19 has been presented to the AVAPCD Board; each member having reviewed, considered and approved  
20 the information contained therein prior to acting on the proposed amendments; and the AVAPCD  
21 Board having determined that the proposed amendments to Regulation XIII will not have any  
22 adverse significant impact on the environment or upon wildlife resources and/or habitat; and

23       **WHEREAS**, projects which have no potential for adverse impact upon wildlife resources  
24 and/or habitat are eligible for a De Minimis Fee Exemption from the payment of fees for review of  
25 Negative Declarations to the California Department of Fish and Game pursuant to 14 Cal. Code Reg.  
26 §753.5; and

27       **WHEREAS**, the AVAPCD has made the appropriate findings to qualify this Negative  
28 Declaration for such De Minimis Fee Exemption; and

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**WHEREAS**, the Board has considered the evidence presented at the public hearing.

**NOW THEREFORE BE IT RESOLVED**, that the Governing Board of the AVAPCD finds that the proposed amendments to Regulation XIII - *New Source Review* are necessary, authorized, clear, consistent, non-duplicative and properly referenced; and

**BE IT FURTHER RESOLVED**, that the Governing Board of the AVAPCD finds that the proposed amendments to Regulation XIII - *New Source Review* will have no significant adverse impact on the environment which reflects the independent judgement of the AVAPCD and certifies the Negative Declaration for the proposed amendments to Regulation XIII - *New Source Review*; and

**BE IT FURTHER RESOLVED**, that the Governing Board of the AVAPCD determines that the De Minimus Fee Exemption is appropriate; and

**BE IT FURTHER RESOLVED**, that the Governing Board of the AVAPCD adopts, pursuant to the authority granted by law, the proposed amendments to Regulation XIII - *New Source Review*, as set forth in the attachments to this resolution and incorporated herein by this reference; and

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately upon adoption, and that the Clerk of the Board is directed to file the Notice of Determination in compliance with the provisions of CEQA and take other appropriate actions.

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**PASSED, APPROVED AND ADOPTED** by the Governing Board of the Antelope Valley Air  
Pollution Control District by the following vote:

**AYES: 5 MEMBER: ROBERTS, LAWSON, THOMPSON, DISPENZA,  
LEDFOED**

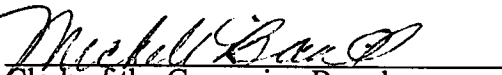
**NOES: MEMBER:**

**ABSENT: 2 MEMBER: HEARNES, MCCOY**

**ABSTAIN: MEMBER:**

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES ) SS:

I, Michele Baird, Clerk of the Governing Board of the Antelope Valley Air Pollution Control  
District, hereby certify the foregoing to be a full, true and correct copy of the record of the action as  
the same appears in the Official Minutes of said Governing Board at its meeting of **March 20, 2001.**

  
Clerk of the Governing Board,  
Antelope Valley Air Pollution Control District.

